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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
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LIBERTY MEDIA HOLDINGS, L.L.C.	*	
A California Limited Liability Co.,	*	
	*	
Plaintiff,	*	
	*	
VERSUS	*	
	*	
HOTFILE.COM,	*	
A Foreign (Panama) Corporation,	*	**TRIAL COURT CAUSE #:**
ANTON TITOV,	*	
A Foreign Individual,	*	**3:09-CV-2396-D**
WEBAZILLA, L.L.C.,	*	**DOCUMENT FILED UNDER SEAL**
A Florida Limited Liability Company,	*	
WEBAZILLA, B.V.,	*	
A Foreign (Dutch) Corporation,	*	**ORIGINAL**
MONIKER ONLINE SERVICES,	*	
A Florida Limited Liability Company	*	
LIMELIGHT NETWORKS,	*	
An Arizona Corporation	*	
PAYPAL, INC.,	*	
A California Corporation,	*	
DRAGOS BADAN,	*	
An individual,	*	
VINICIUS ALVES,	*	
An individual,	*	
JOSEF DAVIS S. PRADE,	*	
An individual,	*	
ROBERT PARELL,	*	
An individual,	*	
YUNZHI COMPUTER,	*	
A corporation,	*	
SHALLALAT GEN TR L.L.C.,	*	
A Limited Liability Company,	*	
ASHISH THAKUR,	*	
An individual,	*	
SATHEESH D N,	*	
An individual,	*	
KEYANA IT CO. LTD.,	*	
A corporation,	*	
PREMIUM ISSUER,	*	
A corporation,	*	
MUHAMA KHAIRUL IBRAHIM,	*	

An individual, *
TOUCH DIAMOND LIMITED, *
A corporation, *
HOTFILE PREMIUM, *
A corporation, *
AYDINLAR KIRTASIYE OFFICE, *
A corporation, *
OZGUR, *
An individual, *
TAMER ÇEKICI, *
An individual, *
FATIH OKTEN, *
An individual, *
JOHN DOE, numbers 1-500, *
Presently unknown Defendants. *
*
Defendants. *

DOCUMENT FILED UNDER SEAL

FIRST AMENDED ORGINAL COMPLAINT

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An individual,	*
JOHN DOE, numbers 1-500,	*
Presently unknown Defendants.	*
	*
Defendants.	*

FIRST AMENDED ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, LIBERTY MEDIA HOLDINGS, L.L.C. (hereinafter, "Plaintiff LMH") by and through its undersigned Counsel, **MARC RANDAZZA, ESQ.**, an attorney licensed to practice law in the States of Massachusetts and Florida and admitted to practice before the United States District Court, Northern District of Texas, and **GARY P. KRUPKIN, ESQ.**, an attorney licensed to practice law in the State of Texas and before the United States District Court, Northern District of Texas, and files this, its ***FIRST AMENDED ORIGINAL COMPLAINT***, in the above entitled and numbered cause of action. The Plaintiff respectfully requests the relief requested herein. For just cause, Plaintiff LMH would show the Court as follows:

SECTION NUMBER I: INTRODUCTION AND PARTIES

1.1 This is an action by Liberty Media Holdings, L.L.C. (hereinafter, "Plaintiff LMH"), a California limited liability company, to recover damages arising from massive infringement of Plaintiff LMH's copyrights in its creative works by Defendants Hotfile.com, a Panamanian company; Anton Titov (hereinafter, "Defendant Titov"), an individual residing in Bulgaria; Webazilla, L.L.C., (hereinafter, "Defendant Webazilla"), a Florida limited liability company; Webazilla B.V., (hereinafter, "Defendant Webazilla B.V."), a Dutch corporation; numerous other Defendants, both individually and corporately, as named above acting in a capacity as confederate, co-conspirator, co-infringer, or to aid, encourage and support the illegal, improper, and unauthorized use of Plaintiff LMH's copyright protected material, and Defendants John Does 1 through 50, (hereinafter "Defendant John Doe 1-50), individuals presently unknown to Plaintiff LMH.

1.2 Defendants, jointly and severally, with actual or constructive knowledge of or with willful blindness, reproduced and distributed certain Plaintiff LMH-owned works through www.Hotfile.com (hereinafter "Hotfile website"). www.Hotfile.com is an Internet website owned, operated, and controlled by Defendants Hotfile.com and Titov. Defendants Webazilla, L.L.C., and Webazilla, B.V. are web-hosting companies. They provided web-hosting services to Defendant Hotfile.com. Numerous other named Defendants, in their individual or corporate capacity, joined as confederates or co-conspirators to illegally and improperly reproduce and distribute Plaintiff LMH-owned intellectual property through Defendant Hotfile.com and/or www.Hotfile.com, the website name of Defendant Hotfile.com. Defendants John Doe 1-50 are Affiliates, as later defined herein, of Defendant Hotfile.com. They remain presently unidentified.

SECTION NUMBER II: JURISDICTION, VENUE, AND PERMISSIBLE AMENDMENT

Section Number II-A: Jurisdiction

2.1(A) This is a civil action for injunctive and permanent relief and damages as follows:

(1) copyright infringement, **17 U.S.C. §101** *et seq.*;

(2) trademark infringement (false designation of origin), **15 U.S.C. §1125**;

(3) misappropriation of the right of publicity under the common law and **CAL. CIVIL CODE §3344**;

(4) unfair business practices, **CAL. BUS. & PROFESSIONS CODE**, **§17200**, *et seq.*; and,

(5) fraudulent transfer, **CAL. CIVIL CODE §3439,** *et seq.*

2.2(A) This Court has subject matter jurisdiction over Plaintiff LMH's claims for copyright infringement, trademark infringement and related claims; **17 U.S.C. §101**, *et. seq.,* **15 U.S.C. §1117,** *et seq.*, and **28 U.S.C. §§1331 and 1338(a) and (b).**

2.3(A) This Court has supplemental jurisdiction over Plaintiff LMH's claims arising under state law pursuant to **28 U.S.C. §1367(a).** These claims so closely relate to Plaintiff LMH's federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

2.4(A) The Court has personal jurisdiction over each of the Defendants, as follows:

(1) Defendant Webazilla's principal place of business in the United States is within the Northern District of Texas. *See,* **Exhibit A**, attached hereto and incorporated herein for all purposes;

(2) Defendant Hotfile.com stored, operated, or contracted to operate web-servers in Dallas, Texas. Further, as a foreign corporation, it is subject to suit in any appropriate district in the United States;

(3) The Court has personal jurisdiction over Defendant Titov. A Federal Court that has jurisdiction over a corporation has jurisdiction over its alter egos. Defendant Titov directed or caused to be directed Defendant Hotfile's actions in a manner consistent with the elements of alter ego, *infra.*

Section Number II-B: Venue

2.1(B) Venue is proper in this Court pursuant to **28 U.S.C. §§1391(b), (c) and (d)**, and **28 U.S.C. §1400(a).**

Section Number II-C: Permissible Amendment

2.1(C) The Federal Rules of Civil Procedure permit a plaintiff one (1) amendment of an original petition as a matter of course.

> **(a) Amendments Before Trial.**
> (1) *Amending as a Matter of Course.* A party may amend its pleading once as a matter of course:
> (A) before being served with a responsive pleading; or
> (B) within 20 days after serving the pleading if a responsive pleading is not allowed and the action is not yet on the trial calendar.

FED. R. CIV. PROC., rule 15(a)(a)(A),(B) (West, 2009).

2.1(D) Plaintiff LMH hereby exercises its permissible amendment. Plaintiff LMH has not received any responsive pleading and the action is not set on the Court's trial calendar. Plaintiff LMH discovered additional Defendants, causes of action, and matters material for Court consideration after filing its Original Complaint. Plaintiff LMH avers that it does not offer this First Amended Original Complaint to disadvantage any Defendant, to obstruct the efficient operations of this Court, or otherwise thwart the legitimate ends of justice. Rather, Plaintiff LMH offers this First Amended Original Complaint to permit a more accurate Court assessment of the grounds for Plaintiff LMH's requested relief and serve the legitimate ends of justice. Plaintiff LMH is aware that the relief requested by the accompanying documents is extraordinary relief. Therefore, Plaintiff LMH believes it is incumbent to provide the Court full, complete, and verified averments and pleadings permitting Court to assess this amended company and the accompanying extraordinary relief request.

SECTION NUMBER III: THE PARTIES

Section Number III-a: Plaintiff Liberty Media Holdings, L.L.C.

3.1(A) Plaintiff LMH is a California limited liability corporation doing business as CORBIN FISHER®, with a mailing address of 302 Washington Street, Suite Number 321, San Diego, California, 92103. Plaintiff LMH produces, markets, and distributes adult entertainment products, including, *inter alia*, Internet website content, videos, DVDs, and photographs.

3.2(A) Plaintiff LMH discovered more than 800 of its original titles illegally or improperly stolen or copyright infringed, and illegally distributed on Defendant Hotfile.com. Defendant Hotfile.com used Defendant Webazilla's web-hosting services. An accurate number of the intellectual properties infringed, stolen, or improperly obtained is unavailable until Plaintiff LMH conducts discovery.

Section Number III-b: Defendant Hotfile.com

3.1(B) Defendant Hotfile.com is a Panamanian corporation of unknown form and location. Defendant Hotfile.com concealed, disguised, and obfuscated the facts of its location, address, and principals. Plaintiff LMH avers this pattern suggests a scienter that Defendant Hotfile.com engages in illicit, improper, lawless, unauthorized, and culpable activities.

3.2(B) Defendant Hotfile.com does business as, and operates the Hotfile.com website at www.Hotfile.com.

3.3(B) Defendant Hotfile.com competes with Plaintiff LMH in the distribution and sale of adult-oriented, audiovisual works through Internet distribution.

Section Number III-c: Defendant Anton Titov

3.1(C) Defendant Anton Titov is an individual residing in Bulgaria and is an alter ego of Defendant Hotfile.com.

Section Number III-d: Defendant Webazilla, L.L.C. and Defendant Webazilla, B.V.

3.1(D) Defendant Webazilla, L.L.C. is a Florida limited liability corporation that provides hosting services to Defendant Hotfile.com. Defendant Webazilla, L.L.C. it is the alter ego of Defendant Webazilla, B.V.

3.2(D) Defendant Webazilla B.V. is a Dutch corporation that provides hosting services to Defendant Hotfile.com. Defendant Webazilla, B.V. is the alter ego of Webazilla, L.L.C.

3.3(D) Defendant Webazilla's principal place of business is Dallas, Texas, a location within the Northern District of Texas and the jurisdiction of this Court.

Section Number III-e: Defendant Moniker Online Services, L.L.C

3.1(E) Defendant Moniker Online Services, L.L.C. is a Florida limited liability company and is the ICANN Registrar for Defendant Webazilla. Defendant Moniker is included as an injunctive Defendant only. Plaintiff LMH does not accuse Defendant Moniker of wrongdoing, at this time.

Section Number III-f: Defendant Limelight Networks, Inc.

3.1(F) Defendant Limelight Networks, Inc. is an Arizona corporation and is currently hosting Defendant Hotfile.com's data. Defendant Limelight is included as an injunctive Defendant only. Plaintiff LMH does not accuse Defendant Limelight of wrongdoing, at this time.

Section Number III-g: Defendant PayPal, Inc.

3.1(G) Defendant PayPal, Inc. is a California corporation and is currently the only known United States repository of Defendant Hotfile's funds.

Section Number III-h: The Foreign Affiliate Defendants.

3.1(H) The foreign affiliate defendants are similarly situated and shall be collectively referred to as "the foreign affiliates." They include:

A. Vinicius Alves, www.contapremium.net, webmaster@contapremium.net;

B. Josef David S. Prade,, www.brpremium.com, josef@premium.com;

C. Robert Parell, www.hotfileshop.com, info@hotfile.com;

D. Yunzhi Computer, www.gpu.cn, ray@gpu.cn;

E. Shallalat Gen Tr LLC, www.filesharedubai.com, sales@filesharedubai.com;

F. Ashish Thakur, premiuminrupees.com, premiumrupees@gmail.com;

G. Satheesh D N, hotfileindia.com, sales@hotefileindia.com;

H. Keyana IT Co. Ltd., www.parsiNIC.com, support@parsinic.com;

I. Premium Issuer, www.premiumuser.com, accounts@premiumuser.com;

J. Muhama Khairul Ibrahim, www.hotfilemalaysia.com, mkbi28@gmail.com;

K. Touch Diamond Limited, www.HotFile24h.com, info@HotFile24h.com;

L. Hotfile Premium, www.hotfile-premium.ru, support@hotfile-premium.ru;

M. Aydinlar Kirtasiye Office, www.premiumtr.om, support@premiumtr.com;

N. Ozgur, www.hotfilepremium.com, info@hotfilepremium.com;

O. Tamer Çekici, www.fullydown.net, tmr_026@hotmail.com;

P. Fatih Okten, www.premiumpazari.com, faith@premiumpazari.com.

3.2(H) The foreign affiliates are non-U.S. based, offshore sales companies that facilitate sales of Defendant Hotfile.com's service. They are knowledgeable, willing and fully complicate co-conspirators in Defendant Hotfile's massive copyright infringement scheme.

Section Number III-i: Defendant Dragos Badan

3.1(I) Defendant Dragos Badan is the owner and operator of the website www.gayup.org. On information and belief, Defendant Badan resides in London, United Kingdom.

3.2(I) On information and belief, "Dragos Badan" may be an alias or a false name. If, after discovery, Plaintiff LMH learns "Dragos Badan" is an alias, Plaintiff LMH will seek leave to amend this Complaint to reflect the true name of the responsible party if discovery reveals a true or different identity that Dragos Badan.

3.3(I) Defendant Dragos Badan operates Gayup.org, one of Defendant Hotfile's known affiliates.

Section Number III-J: Defendant John Doe 1-500

3.1(J) The true names and capacities, whether individual, corporate, affiliate, or otherwise, of Defendant John Doe 1-500, inclusive, are presently unknown to Plaintiff LMH. It is for that reason Plaintiff LMH sues these Defendants by fictitious names. Plaintiff LMH avers that each of the John Doe defendants, jointly or severally, is responsible for the damages alleged herein.

3.2(J) Defendant John Doe 1-500 posted Plaintiff LMH's copyrighted works on Defendant Hotfile.com's website and/or on Defendant Webazilla's servers. Plaintiff LMH intends to amend this ***First Amended Original Complaint*** when the true names of any John Doe defendant become known.

3.3(J) Plaintiff LHM avers that each Defendant, individually, corporately, jointly and/or severally, acted intentionally, knowingly, negligently or through willful blindness, as an agent or representative of each and every, all and singular, the other Defendants, and acted to further the ends of the illegal and improper purposes alleged herein in a common course or scheme to infringe on the Plaintiff's copyrighted intellectual property for profit and monetary gain.

SECTION NUMBER IV: STATEMENT OF FACTS

4.1 Beginning in the 1990's, the Internet became a flea-market of copyrighted intellectual property, pirated from legitimate producers and owners of the property. *Ab initio*, this was the realm primarily of individuals pirating music files on centralized servers such as Napster. *See, e.g.,* ***A&M Records, Inc., et al. v. Napster, Inc., et al.***, 284 F.3d 1091 (9^{th} Cir., 2002); *see, also,* ***A&M Records, Inc., et al. v. Napster, Inc., et al.***, 239 F.3d 1004 (9^{th} Cir., 2001). The Courts held Napster responsible for being a clearinghouse for pirated music. Post-***Napster***, intellectual property thieves adapted a decentralized model; none of the stolen files resided on a central computer. The pirated files resided on the individual end-user's computer. The decentralized model helped those interested in pirating copyrighted works by using computers communicating with one another. This permitted owners of various piracy systems to claim smugly that they were merely "facilitating communication" between the parties.

4.2 The Supreme Court ruled this business model illegal, also. *See, generally,* ***Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.***, 545 U.S. 913, 125 S.Ct. 2764, 162 L.Ed.2d 781 (2005). In ***Grokster,*** the Supreme Court held that users could sue the defendant, a peer-to-peer network operator, for inducing copyright infringement.

4.3 The present ill, fostered by the Defendants and others similarly situated, is their adaptability to new methods by which to purloin intellectual property. The latest adaptation is a reaction to both the legal regime after ***Grokster*** and the technological reality that permits the wholesale theft and on-line distribution of entire motion picture films. The effort requires enormous amounts of bandwidth and data/electronic storage capacity. Defendant Hotfile.com, a self-described "one-click" hosting" site, has the technological capacity to achieve this nefarious end. Further, Defendant Hotfile, in conjunction with the other named-Defendants is active in the theft and distribution of copywrited intellectual property, including, but not limited to, motion pictures.

4.4 Under the "one-click" hosting business model, a company provides access to massive amounts of data storage, the primary purpose of which is the use and exchange of pirated copyrighted works. Much like Napster, the offending company stores the stolen works on its computers and servers. Unlike Napster, one-click hosting services are careful not to index the files, or acknowledge the almost-universal illegal use of its system.

4.5 Defendant Hotfile.com's own website states:

> HOTFILE.COM – Free one-click hosting!
> With us you can **share big files** easily and securely:
> Just choose a file, click the "Upload" button and send the download link to your friends and anyone you know.

See, www.Hotfile.com.

4.6 Defendant Hotfile.com, like Grokster before it, has a ***theoretical*** legitimate use. Certainly, there are large files that individuals might want to share with other users with no illegal intent or untoward activity. However, Defendant Hotfile.com's practical and overwhelmingly popular application is singular and transparent; *i.e.* to gain enormous profit from the illegal sharing of copyrighted materials, many of which are the intellectual property of Plaintiff LMH.

4.7 Defendant Hotfile.com provides its users with the ability to upload and download materials anonymously. Defendant Hotfile.com cleverly avoids cataloging or indexing the files to be willfully blind to their users' uploads and downloads, all the while smiling like the Cheshire cat as ill-gotten gains fill their coffers. To bolster the fact that Defendant Hotfile.com is aware of the illegality of its conduct, it offers two methods for download services. Defendant Hotfile.com's permits its partners to download very slowly a stolen movie for no charge, or pay a premium to download the movie ten-times faster. *See,* **Exhibit B**, attached hereto and incorporated herein for all purposes.

4.8 The **Exhibit B** films, featured on Defendant Hotfile.com as either a "free" or "paid" download, are merely a representative sampling of over 800 infringements of Plaintiff LMH's works. *See,* **Exhibit C**, attached hereto and incorporated herein for all purposes, and further described as *Declaration of Miguel Sanchez* (hereinafter, "Sanchez Declaration") at ¶4. Plaintiff LMH also includes the copyright registration certificates for these particular works. *See,* **Exhibit D**, attached hereto and incorporated herein for all purposes.

4.9 If an individual shared one or two legitimate files, the delay caused by using the "free" download service would not justify the time necessary to enter a credit card number to receive the "paid" download service. However, if an individual depends on Defendant Hotfile.com as a source of stolen intellectual property, including movies and music, the membership fee is a bargain. For $3.00 per day or $55.00 per year, a user can download an unlimited amount of movies and music. Neither

Defendant Hotfile.com nor the individual downloading the pirated material pays anything to the actual copyright owner. *See,* **Exhibit E**, attached hereto and incorporated herein for all purposes.

4.10 Defendant Hotfile.com's library of illicitly obtained materials does not appear magically or accidentally. Defendant Hotfile.com depends on an army of assistants to upload the content. The newest and most sought-after content attracts new users. A percentage of users, both old and new, sign-up for the premium "paid" download service, making Defendant Hotfile.com a hugely profitable enterprise.

4.11 Defendant Hotfile.com's terms its assistants "Affiliates." The basis of each Affiliate's compensation is three-fold: (1) the amount of content he or she uploads; (2) how often users download that content; and, (3) the number of new Affiliates he or she brings to Defendant Hotfile.com. *See,* **Exhibit F**, attached hereto and incorporated herein for all purposes. Defendant Hotfile.com's business model rests on a massive pyramid or Ponzi scheme; veteran copyright infringers recruit new copyright infringers, while all infringers attract recruits to download the pirated intellectual property from which they receive a payment. Defendant Hotfile.com shares a small portion of its ill-gotten gains with their Affiliates, but, unquestionably, receives significant profits through the massive theft on which its business model rests.

4.12 Defendant Hotfile.com's money churn works in this manner: a user uploading a file to Defendant Hotfile.com receives a "referral fee" if another, separate user signs-up for Defendant Hotfile.com's premium download service as a result of seeing the newly-uploaded file. Defendant Hotfile.com profits from members paying for the "premium membership package." Newly uploaded content, virtually all of which is illegally and improperly obtained, serves as an advertisement and inducement to sign-up for the premium download service. Stolen copyrighted material is the source of Defendant Hotfile.com's revenue.

4.13 Plaintiff LMH discovered more than 800 copies of its copyrighted material illegally shared on Defendant Hotfile's website. *See,* **Exhibit C**, *Sanchez Declaration* at ¶ 4. Plaintiff LMH conducted an investigation. The investigation revealed:

(1) Defendant Webazilla web-hosted Defendant Hotfile.com. *See,* **Exhibit G**, attached hereto and incorporated herein for all purposes;

(2) Defendant Hotfile.com did not have a registered DMCA Agent, required by **17 U.S.C. §512(c)(2),** to qualify for the DMCA safe harbor provisions. *See,* http://www.copyright.gov/onlinesp/list/h_agents.html

(3) Defendant Webazilla did not have a registered DMCA Agent, required by **17 U.S.C. §512(c)(2),** to qualify for the DMCA safe harbor provisions. *See,* http://www.copyright.gov/onlinesp/list/w_agents.html

4.14 As the web-host for Defendant Hotfile.com, and a company that does not comply with the DMCA, Defendant Webazilla is liable for copyright infringements that occur on its web-hosting system.

4.15 Plaintiff LMH provided both Defendant Hotfile.com and Defendant Webazilla with "takedown notices" in the DMCA prescribed form. *See,* **Exhibit H**, attached hereto and incorporated herein for all purposes.

4.16 After Plaintiff LMH noticed Defendant Webazilla, Plaintiff requested assistance to identify the person or persons operating Defendant Hotfile.com. Defendant Webazilla failed and refused to assist and was intransigent against offering Plaintiff any information.

4.17 In response to Defendant Webazilla's refusal to assist, Plaintiff LMH issued a subpoena. The subpoena requested Defendant Webazilla identify Defendant Hotfile's 807 co-infringers and Defendant Hotfile.com's operators. After receiving Plaintiff LMH's subpoena, a Defendant Webazilla principal called Plaintiff LMH's attorney. Defendant Webazilla's principal asked the reason for Plaintiff LMH's inquiry; the principal's concern was Defendant Hotfile.com's position as a "very big" and "important" customer. *See,* **Exhibit I**, *Declaration of Marc J. Randazza* (hereinafter, "Randazza Declaration"), attached hereto and incorporated herein for all purposes.

4.18 The principal's statement raised Plaintiff LMH's suspicion regarding the extent of Defendant Webazilla's involvement in copyright infringement. Shortly thereafter, Plaintiff LMH carefully scrutinized Defendant Webazilla and discovered the following:

(1) Defendant Webazilla requested an extension of time to respond to Plaintiff LMH's subpoena requesting Defendant Hotfile.com's information. During that period, Defendant Hotfile.com moved its servers to another hosting company. This action suggested collusion between the parties.

(2) Defendant Hotfile.com hides its true identify, and the identity of its owner(s) and operator(s), using a false Panamanian address. Defendant Webazilla resisted staunchly providing any identifying information to Plaintiff LMH. This irrational resistance heightened the specter of collusion between the parties.

4.19 Defendant Webazilla aided, abetted, conspired, and facilitated Defendant Hotfile.com's criminality. These actions create an independent basis for Defendant Webazilla's liability. Defendant Webazilla's facilitation included, but is not limited to:

(1) Providing web-hosting services for Defendant Hotfile.com;

(2) Profiting from Defendant Hotfile.com's copyright infringement, of which Defendant Webazilla was actually or constructively aware, or was willfully blind in permitting Defendant Hotfile.com's infringement;

(3) Materially contributed to the illegal and improper conduct;

(4) Was in a position to prevent Defendant Hotfile.com's copyright infringement, but willfully, knowingly, or negligently failed to do so. Defendant Webazilla shared-in and enjoyed the profits from its support and contribution to Defendant Hotfile.com's improper and illegal conduct.

4.20 Defendant Hotfile.com directly or indirectly, actually or constructively, intentionally, knowingly, or negligently solicited, encouraged, and was dependent on Defendant Webazilla's participation, confederation, collusion, and support in the infringement of Plaintiff's LMH's copyrighted works as an integral part of its profit structure.

4.21 The servers involved in this infringement were located in Defendant Webazilla, L.L.C.'s "server farm." *See,* **Exhibit G**.

4.22 Defendant Hotfile.com's website provides the blueprint for the massive copyright infringement conspiracy. **Exhibit F** explains Defendant Hotfile.com's Affiliate Program; soliciting, employing, encouraging, and paying others to engage in the massive infringement. Defendant Hotfile.com's website explains the Affiliate Program is not a mere remote hard drive service. Defendant Hotfile.com expects its Affiliates to: (1) recruit users to download infringed materials; and, (2) continue to upload a steady stream newly infringed content. *See,* **Exhibit F.** Defendant Hotfile.com's website bolsters the nature of the illicit enterprise: "***We are trying to encourage the good promoters by increasing their earnings and to reduce the earnings for uploaders* [sic] *that mainly use the free hotfile* [sic] *resources for storage.***" *See,* www.Hotfile.com (italics added) (bold added).

4.23 Defendant Hotfile.com's Affiliates receive compensation depending on their profit production. Platinum Members earn the highest compensation and status level. *See,* **Exhibit F**. Defendant Hotfile.com explains the method by which an Affiliate becomes a Platinum Member:

Affiliates: How do I become platinum member / raise my rank?

Essentially to reach a higher status your links should sell more premium accounts. Here are few tips that may help you to obtain a higher rank and eventually reach platinum status:

- - Try to post files from hotfile.com only. Using another file hosting service for the same files allows users to simultaneously download from different sites and they have less incentive to buy premium.
- - Switching to different file hosting services every other day hurts your rank - that way people are less willing to buy a premium account, as they will need multiple premium accounts from different services to get all the content and that is more expensive.
- - Upload files only if you intent *[sic]* to promote them. Used server space is also accounted *[sic]* when your rank is considered.
- - Put more effort into bringing more visitors to download your files, rather than to upload more files. If you upload 10Gb of files everyday just to have every file downloaded just few times you are going to be stuck with Copper.
- - Post only on reliable resources. Posting on sites that have popups, *[sic]* try to install troyans *[sic]* or similar stuff hurts your performance and you lose rank.

See, www.hotfile.com

4.24 Defendant Hotfile.com is not a mere "service provider." It is a massive copyright infringer. It engages "Affiliates" who steal copyrighted content and provide this content to Defendant Hotfile.com. Defendant Hotfile.com publishes illicitly obtained copyrighted materials to lure potential members to its website. Defendant Hotfile.com engages in this illicit activity for profit. The Affiliates uploading the illicitly obtained material also profit; Defendant Hotfile.com compensates Affiliates for their nefarious activity.

4.25 Defendant Webazilla either directly or indirectly, with either actual or constructive knowledge, or through willful blindness engaged in the illicit enterprise. It provided hosting services to Defendant Hotfile.com.

4.26 Defendant Dragos Badan operates www.Gayup.org (hereinafter, "Gayup.org"), one of Defendant Hotfile.com's known affiliates.

4.27 Gayup.org (by and through Defendant Badan) is a website that provides adult-themed, audiovisual content to the public. The website permits uploading and storage of copyrighted original material from various adult-themed, audio-visual websites. The content uploaded to Gayup.org is illegally and illicitly obtained from Plaintiff LMH and others holding legitimate copyrights. Gayup.org (by and through Defendant Badan) posts still photographic images from these works to entice website users to download video recordings from Defendant Hotfile.com.

4.28. After uploading the illegally obtained, copyrighted Plaintiff LMH material, Gayup.org (by and through Defendant Badan) posts links to pirated material located on Defendant Hotfile.com's website. At that point, a Defendant Hotfile.com user can download every full-length Plaintiff LMH video at no-charge, or pay a membership fee to Defendant Hotfile.com for a faster download rate. Gayup.org (by and through Defendant Badan) receives money in the form of "referral fees," from Defendant Hotfile.com. Defendant Hotfile bases the amount of money Defendant Badan receives on the number of user memberships downloading videos posted by Defendant Badan.

4.29 The only intellectual property on Gayup.org's website are copyrighted still photographs, and other protected material, linked to download the full copyrighted videos from Defendant Hotfile.com. These protected works include Plaintiff LMH's copyrighted intellectual property.

4.30. Neither Defendant Hotfile.com, Gayup.org, nor the individual viewing the pirated material pays anything to the actual copyright owner; *i.e.* Plaintiff LMH.

4.31. Plaintiff LMH discovered 26 copies of its copyrighted still photographs illegally shared on Defendant Badan's Gayup.org's website.. Plaintiff LMH conducted an investigation. The investigation revealed that Defendant Badan, using Gayup.org, did not have a registered DMCA Agent, a requirement of **17 U.S.C. § 512(c)(2)**. A registered DMCA agent is requisite to qualification for the DMCA safe harbor provisions. *See*, http://www.copyright.gov/onlinesp/list/h_agents.html.

4.32. Defendant Badan (through website Gayup.org), is a massive copyright infringer. Defendant Baden publishes illicitly obtained, copyrighted materials to lure potential members to its website. Defendant Badan (through website Gayup.org) engages in this illicit activity for profit earned from Defendant Hotfile.com's referral fees.

4.33 Gayup.org's website features illegally infringed, copyright protected material pirated from Plaintiff LMH.

4.34. The principals, both known and unknown, of all Defendants are equally liable for the legal wrongs complained of. Intellectual property claims include both the corporate entity and the principals who contributed to the infringement. *See, e.g.,* ***Chanel, Inc. v. Italian Activewear of Florida, Inc.***, 931 F.2d 1472 (11th Cir., 1991); *see, also,* ***Mead Johnson & Co. v. Baby's Formula Serv., Inc.***, 402 F.2d 19, 22 (5th Cir., 1968); *and, see,* ***Wilden Pump & Engineering Co. v. Pressed & Welded Products Co.***, 655 F.2d 984 (9th Cir., 1981).

SECTION NUMBER V: ADDITIONAL STATEMENT OF FACTS COMMON TO ALL CLAIMS

5.1 Plaintiff LMH produces and distributes adult-oriented audiovisual works under the registered marks CORBIN FISHER®, and CORBIN FISHER'S AMATEUR COLLEGE SEX®. Additionally, Plaintiff LMH maintains a website. At this website, individuals purchase monthly subscriptions to view Plaintiff LMH's photographic works and audiovisual content.

5.2 Plaintiff LMH sells its copyrighted audiovisual material in DVD format. Sales occur through various channels, including wholesale distribution for down-channel retail distribution. Plaintiff LHM also markets its products through third-party licensees.

5.3 Modern Internet technology permits individuals to enjoy increasing types and amounts of entertainment. Through the Internet, individuals quickly access and/or download a wide range of video files. Many business models, including Plaintiff LMH, take advantage of new and innovative Internet delivery options to attract customers.

5.4 Rapidly changing technology permits corrupt individuals and companies ever-increasing opportunities to circumvent rights belonging legitimately to copyright holders. Many Internet operators, including the instant Defendants, blatantly copy and infringe audiovisual works belonging to others. Defendant Hotfile.com operates under this perfidious business model. Defendant Webazilla facilitated this deleterious behavior.

5.5 Normally, a web hosting company takes advantage of the "safe harbor" provisions of the DMCA, **17 U.S.C. §512**, and would not become a defendant in this cause of action. Defendant Webazilla, L.L.C., and/or Defendant Webazilla, B.V., failed and refused to register a DMCA agent in the United States Patent and Copyright Office. It is not entitled to the DMCA's safe harbor provisions.

5.6 The Defendants, each and every, all and singular, jointly and severally, used technological advancements to engage in massive infringement of copyrights belonging to Plaintiff LMH. All Defendants, either jointly, severally, actually, constructively, and with and without direct concert with one another, deprived Plaintiff LMH of the lawful monetary rewards that accompany its creativity, effort, and entrepreneurship. Defendants' disregard for copyright laws threatens Plaintiff LMH's business.

5.7 The audiovisual works at issue are valuable, and easily discernable as professionally produced works. Plaintiff LMH created the works using highly talented performers, directors, cinematographers, lighting technicians, set designers, and editors. Plaintiff LMH created the works using the highest quality cameras, lighting, and editing equipment. Plaintiff LMH's capital investment in its productions exceeds hundreds of thousands of dollars annually. These capital investment represent sunk costs that

Defendants do not incur. Rather, Defendants avoid massive capital investments and rely on Plaintiff LMH's efforts to achieve their profits.

5.8 Defendants, each and every, all and singular, jointly and severally, solicit individuals to supply copyrighted works belonging to others for reproduction, distribution, public display, and sale through Defendant Hotfile.com's website. Individuals supply thousands of videos, many of which belong to Plaintiff LMH. Individuals and the Defendants transfer this intellectual property and exploit its commercial value without authorization.

5.9 Neither the individuals supplying copyrighted works to Defendants, nor the Defendants themselves, determine the true and correct owners of the copyrighted works. This is true although both the persons or entities transferring and the Defendants receiving and distributing these works are actually or constructively aware, should be aware, or are willfully blind that the copyrights belong to entities other than the individuals or Defendants. Both the individuals supplying the works and the Defendants distributing the intellectual property fail and refuse to apply for proper licensing and further fail to determine the identity and age of the actors appearing in the works as required by Federal law.

5.10 Defendants earn revenue by selling memberships to view the illegally obtained video files.

5.11 Each infringement act occurred on www.Hotfile.com through servers owned and operated by Defendant Webazilla, L.L.C. or Defendant Webazilla, B.V.

5.12 Defendants' unauthorized reproduction, public display, and distribution of Plaintiff LMH's works serve as an inducement, attracting many individuals to purchase memberships to access the Defendant Hotfile.com website, including residents of Texas and California.

5.13 Defendants reproduce and distribute Plaintiff LMH's works on Defendant Hotfile.com's website.

5.14 Defendants actively engage in, promote, and induce copyright infringement.

5.15 Plaintiff LMH's employees discovered and documented that Defendants reproduced, publicly displayed, and distributed, through the Defendant Hotfile.com website, more than 800 unauthorized video files copyrighted by and belonging to Plaintiff LMH. Defendants' customers viewed the illegally and improperly obtained intellectual property files thousands of times.

5.16 Defendants' business model depends on the illegal uploading, posting, displaying and performance of copyrighted audiovisual works belonging to Plaintiff LMH. Defendants intentionally, knowingly, negligently, or by willful blindness built a library of works that infringed on copyrighted material designed to draw Internet traffic to sell memberships to view the works, creating substantial revenues thereby.

5.17 Defendants intentionally, knowingly, negligently, or through willful blindness avoided reasonable precautions to deter rampant copyright infringement on Defendant Hotfile.com's website.

5.18 Defendants make no attempt to indentify the individuals providing the works, where the individuals obtained the works, or whether the individuals had authority to further reproduce and distribute the works.

5.19 Defendants shift the burden to copyright owners to monitor Defendants' website(s) on a continual basis to detect infringing files and to send notices demanding that Defendants take down the infringing files.

5.20 In an electronic version of "whack-a-mole," Defendants force legitimate copyright owners to patrol Defendant Hotfile.com's website. The website has no directory, making it difficult, if not impossible, for a copyright holder to determine the location of its works and send a takedown demand. During the delay between a takedown demand and compliance, many people continue to download the stolen materials. However, Defendants continue to upload works pirated from Plaintiff LMH.

5.21 Defendants' acts and omissions allow them to profit by their infringement while imposing on copyright owners a monetary burden to monitor Defendant's website without sufficient means to prevent continued and unabated infringement.

5.22 Prior to releasing its works into the Internet market or retail market in DVD format, Plaintiff LMH marks each work with a copyright notice. Plaintiff LMH's labels reflect its true business address and a statement that it maintains age authentication records at that address, as required by **18 U.S.C. §2257**.

5.23 Plaintiff LMH displays prominently its copyright mark and trademark on its website.

5.24 Defendants' infringements harmed and continue to harm Plaintiff LMH and others by illegally deriving Plaintiff LMH's the benefits of its creative works. Defendants' continued infringements undermine Plaintiff LMH and other creative enterprises that produce audiovisual works.

5.25 This causes a great diminution in Plaintiff LMH's profits. *See* **Exhibit J**, Declaration of Brian Dunlap; **Exhibit K**, Declaration of Marc J. Randazza, and **Exhibit L**, Declaration of Eric Gapp.

5.26 Plaintiff LMH seeks immediate redress, as follows:

(1) A declaration that Defendants' conduct in reproducing and distributing Plaintiff's copyrighted works without authorization willfully infringes Plaintiff LMH's copyrights;

(2) A permanent injunction requiring Defendants employ reasonable methods and/or technologies preventing or limiting infringement of Plaintiff LMH's copyrights;

(3) Statutory damages for Defendants' past and present willful infringement, or actual damages plus profits.

SECTION NUMBER VI: FIRST CAUSE OF ACTION

Alter Ego as to Defendant Hotfile.com and Defendant Titov

6.1 Plaintiff LMH realleges and incorporates by reference as if *verbatim,* each and every paragraph previous to this section, inclusive.

6.2 Defendant Titov is, and at all pertinent times was, the sole owner of the stock of Defendant Hotfile.com.

6.3 On information and belief, Defendant Titov is, and at all pertinent times was, the only owner of Defendant Hotfile.com, and that Defendant Hotfile.com and Defendant Titov are alter egos of each other.

6.4 There exists, and at all pertinent times existed, a unity of interest in ownership between Defendants Titov and Defendant Hotfile.com. Any individuality and separateness between Defendant Titov and Defendant Hotfile.com ceased and Defendant Hotfile.com is the alter ego of Defendant Titov, as follows:

(1) Defendant Titov and Defendant Hotfile.com commingled funds and other assets for their own convenience and to assist in evading payment of obligations;

(2) Defendant Titov diverted funds and other assets of Defendant Hotfile.com for uses other than legitimate corporate concerns;

(3) Defendant Titov treated assets of Defendant Hotfile.com as his own;

(4) Defendant Titov controlled, dominated and operated Defendant Hotfile.com as his individual business and alter ego, carried out the activities and business of Defendant Hotfile.com without holding director's and shareholder's meetings, and without maintaining adequate records or minutes of corporate proceedings;

(5) Defendant Titov failed to capitalize adequately Defendant Hotfile.com;

(6) Defendant Hotfile.com is, and at all pertinent times was, a mere shell, instrumentality, and conduit through which Defendant Titov carried on personal business in a corporate name exactly as if the corporation were unincorporated;

(7) Defendant Titov exercised complete control and dominance to an extent that any individuality or separateness of Defendant Hotfile.com and Defendant Titov does not presently exist and did not exist in the past; and,

(8) Defendant Titov diverted assets from Defendant Hotfile.com to himself to the detriment of creditors, including Plaintiff LMH.

6.5 The separate existence of Defendant Hotfile.com as an entity distinct from Defendant Titov is a fiction. Recognition of this fiction permits the court find an abuse of the corporate privilege.

SECTION NUMBER VII: SECOND CAUSE OF ACTION

Copyright Infringement – 17 U.S.C. §501 as to all Defendants except Defendant Moniker, Defendant Limelight, and Defendant PayPal

7.1 Plaintiff LMH realleges and incorporates by reference as if *verbatim,* each and every paragraph previous to this section, inclusive.

7.2 Plaintiff LMH holds the copyright on each of the infringed works alleged in this action. Plaintiff LMH registered each copyright with the United States Patent and Copyright Office.

7.3 Plaintiff LMH lists these infringements as **Exhibit M**, attached hereto and incorporated herein for all purposes.

7.4 The number of infringed copyrights grows daily. Plaintiff LMH reserves the right to file supplemental updates to **Exhibit M.**

7.5 At all pertinent times, Plaintiff LMH was the producer and registered owner of the audiovisual works illegally and improperly reproduced and distributed by Defendants through Defendant Hotfile.com's website and Defendant Webazilla's servers.

7.6 Defendant John Doe 1-500 reproduced, reformatted, and distributed Plaintiff LMH's copyrighted works by and through servers and/or other hardware owned, operated, and/or controlled by Defendant Hotfile.com and/or Defendant Webazilla.

7.7 Defendants infringed Plaintiff's copyrights by reproducing and distributing the works through Defendant Hotfile.com's website and Defendant Webazilla's servers without proper approval or authorization of Plaintiff LMH.

7.8 Defendants knew or should have reasonably known, they did not have permission to exploit Plaintiff LMH's works on Defendant Hotfile.com's website or through Defendant Webazilla's servers and further knew or should have known their acts constituted copyright infringement.

7.9 Defendants made no attempt to discover the copyright owners of the pirated works before exploiting them. Defendants failed and refused to take any reasonable measures to determine whether the owner or license holder of copyrighted works.

7.10 Defendant John Doe 1-500, Defendant, Hotfile.com, Defendant Webazilla, L.L.C. Defendant Webazilla, B.V., Defendant Badan and Defendant Titov engaged in intentional, knowing, negligent, or willfully blind conduct sufficient to demonstrate they engaged actively in the improper collection and distribution of Plaintiff LMH's copyrighted works.

7.11 The quantity of copyrighted files available to Internet users increased the attractiveness of Defendant Hotfile.com's services to its customers.

7.12 Defendant Hotfile.com and Defendant Titov actively encouraged users to upload pirated copyrighted files.

7.13 Defendant Hotfile.com and Defendant Titov controlled the files removed from Defendant Hotfile.com's website and determined which files remained. Defendant Badan directly uploaded and provided access to pirated movies, still photos, and text illegally infringed from Plaintiff LMH.

7.14 Defendant Webazilla was aware, should have been aware, or was willfully blind to Defendant Hotfile.com's illegal activity and the illegal activities of Defendant John Doe 1-500.

7.15 Defendant Webazilla generated ever-increasing revenue from Defendant Hotfile.com as web-traffic to Defendant Hotfile.com increased. Defendant Webazilla and Defendant Hotfile.com enjoyed a symbiotic relationship requiring interrelated dependence on extensive digital storage facilities. Defendant Hotfile.com drove the increased digital storage capacity by promoting improperly and illegally obtained works stored on Defendant Hotfile.com-leased and Defendant Webazilla-owned servers.

7.16 None of the Defendants adopted procedures to ensure that distribution of Defendant LMH's copyrighted materials would not occur. Further, neither Defendant Hotfile.com nor Defendant Webazilla established, implemented, or enforced a "repeat infringer" policy.

7.17 Defendant Hotfile and Defendant Webazilla were aware, either actually or constructively, should have been aware, or were willfully blind that pirated copyrighted materials comprised the most popular downloads on the Defendant Hotfile.com system. Defendant Hotfile.com and Defendant Webazilla.com affirmatively and willfully accommodated Internet traffic generated by illegal acts.

7.18 Defendants' conduct was willful within the meaning of **17 U.S.C. §101,** *et seq.* At a minimum, Defendants acted with willful blindness and reckless disregard of Plaintiff LMH's registered copyrights.

7.19 Because of their wrongful conduct, Defendants remain liable to Plaintiff LMH for copyright infringement; **17 U.S.C. §501**. Plaintiff LMH suffers and will continue to suffer substantial losses, including, but not limited to, damage to its business reputation and goodwill.

7.20 The law permits Plaintiff LMH to recover damages, including readily ascertainable direct losses and all profits Defendants made by their wrongful conduct; **17 U.S.C. §504**. Alternatively, the law permits Plaintiff LMH to recover statutory damages; **17 U.S.C. §504(c).**

7.21 Because of Defendants' willful infringement, the law permits enhancement of the allowable statutory damages; **17 U.S.C. §504(c)(2).**

7.22 The law permits Plaintiff LMH injunctive relief; **17 U.S.C. §502**. Further, the law permits a Court Order impounding any and all infringing materials: **17 U.S.C. §503**.

7.23 Plaintiff LMH has no adequate remedy at law for Defendants' wrongful conduct, as follows:

(1) Plaintiff LMH's copyrights are unique and valuable property having no readily determinable market value;

(2) Defendants' infringement harms Plaintiff LMH's business reputation and goodwill such that Plaintiff could not be made whole by any monetary award; and,

(3) Defendants' wrongful conduct and damages to Plaintiff LMH are continuing and unremitting.

7.24 Plaintiff LMH is entitled to preliminary and permanent injunctive relief prohibiting further infringement of Plaintiff LMH's copyrights; **17 U.S.C. §502.**

7.25 Plaintiff is entitled to recover its attorneys' fees and costs of suit; **17 U.S.C. §505**.

SECTION NUMBER VIII: THIRD CAUSE OF ACTION

Contributory Copyright Infringement as to Defendant Webazilla and Defendant Hotfile.com

8.1 Plaintiff LMH realleges and incorporates by reference as if *verbatim,* each and every paragraph previous to this section, inclusive.

8.2 Unknown individuals, without authorization, reproduced and distributed Plaintiff LMH's works through Defendant Hotfile.com's website, directly infringing Plaintiff LMH's copyrighted works and stored on Defendant Webazilla's servers.

8.3 Defendant Webazilla and Defendant Hotfile.com contributed to the infringing acts of those individuals.

8.4 Defendant Webazilla and Defendant Hotfile.com were aware, should have been aware, or were willfully blind to the infringing activity.

8.5 Defendant Hotfile.com aided, abetted, allowed, and encouraged those individuals to reproduce and distribute Plaintiff LMH's copyrighted works through its website without regard to copyright ownership.

8.6 Defendant Webazilla and Defendant Hotfile.com had the obligation and ability to control and stop the infringements. However, Defendant Webazilla and Defendant Hotfile.com failed to do so.

8.7 Defendant Webazilla and Defendant Hotfile.com materially contributed to the infringement.

8.8 Defendant Webazilla and Defendant Hotfile received direct financial benefits from the infringements.

8.9 All Defendants had actual, constructive or should have had actual or constructive knowledge of the infringing acts.

8.10 The conduct, acts, and omission of all Defendants demonstrate contributory copyright infringement.

SECTION NUMBER IX: FOURTH CAUSE OF ACTION

Vicarious Copyright Infringement as to Defendants Hotfile.com and Webazilla

9.1 Plaintiff LMH realleges and incorporates by reference as if *verbatim,* each and every paragraph previous to this section, inclusive.

9.2 Without authorization, individuals reproduced, distributed, and publicly displayed Plaintiff LMH's works through Defendant Hotfile.com's website, directly infringing Plaintiff LMH's copyrighted works.

9.3 Defendant Webazilla and Defendant Hotfile.com were actually or constructively aware or should have been aware or were willfully blind to the infringing activity.

9.4 Defendant Webazilla and Defendant Hotfile.com were able to control or completely end the illegal and improper infringement, but failed and refused to do so.

9.5 Defendant Webazilla and Defendant Hotfile.com contributed materially to the infringement.

9.6 Defendant Webazilla and Defendant Hotfile.com received direct financial gain and profit from those infringing activities.

9.7 The acts, omissions, and conduct of all Defendants constitute vicarious copyright infringement.

SECTION NUMBER X: FIFTH CAUSE OF ACTION

Inducement of Copyright Infringement as to Defendant Hotfile.com and Defendant Titov

10.1 Plaintiff LMH realleges and incorporates by reference as if *verbatim,* each and every paragraph previous to this section, inclusive.

10.2 Defendants designed and distributed technology and devices and induced individuals to use this technology to promote the use of infringed and copyrighted material. As a direct and proximate result of Defendants' inducement, individuals infringed Plaintiff LMH's copyrighted works. These individuals reproduced, distributed and publicly disseminated Plaintiff's copyrighted works through Defendant Hotfile.com's website.

10.3 Defendants' inducements were willful, knowing, or negligent and, at all pertinent times, Defendants acted in disregard of and with indifference to Plaintiff LMH's copyrights.

SECTION NUMBER XI: SIXTH CAUSE OF ACTION

Trademark Infringement - False Designation of Origin as to Defendant Hotfile.com and Defendant Badan

11.1 Plaintiff LMH realleges and incorporates by reference as if *verbatim,* each and every paragraph previous to this section, inclusive.

11.2 Plaintiff LMH applied for, received, and registered the marks CORBIN FISHER®, and CORBIN FISHER'S AMATEUR COLLEGE SEX® with the United States Patent and Trademark Office.

11.3 Defendants and Plaintiff LMH provide identical services. Each serves the same market; *i.e.*, providing adult content for viewing via the Internet. Defendants and Plaintiff LMH are direct competitors.

11.4 Defendants provide audiovisual works on Defendant Hotfile.com's website, a substantial portion of which display the CORBIN FISHER® mark or trademark.

11.5 Defendants' use of the CORBIN FISHER® trademark combined with displaying Plaintiff LMH's copywrited works constitutes a use in commerce likely to cause confusion and mistake. Also, use of these marks and trademarks deceives consumers regarding the work's source or origin as displayed on and distributed by Defendant Hotfile.com's website. Defendants' use tends to deceive or confuse consumers into believing that Defendant Hotfile.com and Plaintiff LMH are affiliated, that Plaintiff LMH sponsors or approves of Defendant Hotfile.com's uses, or that Plaintiff LMH authorized Defendant Hotfile.com to use its marks and trademarks.

11.6 Through its acts and omissions, Defendants engage in false, deceptive, and misleading advertising, statements, or innuendo. These activities constitute unfair competition, false representations, false designation of origin, and false advertising connected with good, products, or services distributed in interstate commerce; a violation of **sub-§43(a)** of **15 U.S.C. §1125(a)** (Lanham Act.)

11.7 Defendants acts and omissions are willful, knowing, negligent, or willfully blind and they act with full knowledge and awareness of the superior trademark rights of Plaintiff LMH. Defendants' acts and omissions are designed purposely to confuse the relevant trade and public into mistakenly believing that Defendants' services are associated with, affiliated with, or licensed by Plaintiff LMH.

11.8 Defendants' acts and omissions constitute unfair competition and false advertising. They caused and continue to cause great and irreparable injury to Plaintiff LMH, CORBIN FISHER® and CORBIN FISHER'S AMATEUR COLLEGE SEX® marks and trademarks, and to the services and goodwill represented thereby, in an unascertained amount. Unless restrained, Defendants will cause further irreparable injury, leaving Plaintiff LMH with no adequate remedy at law.

11.9 The law permits Plaintiff LMH injunctive relief against Defendants, restraining further acts of unfair competition, false designation of origin, and false advertising. Further, the law permits Plaintiff LMH recovery of attorneys' fees and any damages caused by Defendants' acts of unfair competition, false designation of origin, false representation, and false advertising.

SECTION NUMBER XII: SEVENTH CAUSE OF ACTION

Civil Conspiracy as to all Defendants except Defendant PayPal, Defendant Limelight, and Defendant Moniker

12.1 Plaintiff LMH realleges and incorporates by reference as if *verbatim,* each and every paragraph previous to this section, inclusive.

12.2 The Defendants conspired, confederated, and colluded to infringe on the Plaintiff LMH's copyrights to Defendant's economic benefit and Plaintiff LMH's economic and copyright detriment.

12.3 Accordingly, all Defendants are jointly and severally liable for the actions of their co-conspirators.

SECTION NUMBER XIII: INJUNCTIVE RELIEF

13.1 Plaintiff LMH realleges and incorporates by reference as if *verbatim,* each and every paragraph previous to this section, inclusive.

13.2 Each Defendants has, under its possession or control, instrumentalities of and proceeds from its and/or other Defendants' crimes and evidence thereof.

13.3 Specifically, Defendant PayPal has care, custody, and control of multiple bank accounts owned by various Defendants. The funds in these bank accounts represent the Defendants' ill-gotten gains, earned from their illegal copyright infringement.

13.4 Accordingly, Plaintiff LMH requests the Court issue orders freezing any and all, each and singular, the assets and domain names of any and all Defendants and issue further orders freezing the transfer of any data, assets, and/or domain names under its control pending the outcome of this case.

13.5 Plaintiff LMH requests this injunctive Court Order require Defendant Moniker Online Services (the ICANN Registrar for Defendant Webazilla), and Defendant Limelight Network (currently hosting Defendant Hotfile.com's data, but protected by the safe harbor provisions of the DMCA.) to preserve the *status quo* with respect to any instrumentalities of the infringement under their control and not permit any Defendant to alter, delete, modify, remove, move to another server, replace the ICANN Registrar of Defendant Hotfile.com's or any other Defendants' website or Internet service.

13.6 Plaintiff LMH seeks no monetary relief from Defendant Moniker Online Services, Defendant Limelight Networks, or Defendant PayPal. Plaintiff LMH does not directly accuse these particular

Defendants of wrongdoing. They are merely named as defendants in order for this Court to exercise injunctive relief over them.

SECTION NUMBER XIV: JURY DEMAND

14.1 Plaintiff hereby demands a jury trial.

SECTION NUMBER XV: PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff LMH respectfully requests the Court hereby:

(1) Enter a judgment declaring that Defendant Hotfile.com is the alter ego of Defendant Titov;

(2) Enter a judgment declaring that Defendants, jointly and severally, with a common plan, purpose or scheme, willfully infringed Plaintiff's rights in federally registered copyrights pursuant to **17 U.S.C. §501** through direct, contributory, vicarious, and inducing acts;

(3) Enter a judgment declaring that Defendants willfully violated Plaintiff's registered trademarks;

(4) Enter a judgment declaring that Defendants John Doe 1-500, Defendant Hotfile.com, Defendant Titov, and Defendant Badan engaged in unfair competition by distributing Plaintiff's works without complying with **18 U.S.C. §2257**;

(5) Issue declaratory and injunctive relief against all Defendants, their agents, representatives, servants, employees, attorneys, successors and assigns, and all others in acting in concert or participation with them, and further to enjoin and restrain all Defendants and others from copying, posting or making any other infringing use or infringing distribution of Plaintiff's audiovisual works, photographs or other materials;

(6) Issue injunctive and declaratory relief against Defendant Hotfile.com, Defendant Titov, Defendant Webazilla, L.L.C., Defendant Webazilla, B.V., and Defendants John Doe 1-500 and their agents, representatives, servants, employees, attorneys, successors and assigns, and all others in active concert or participation with them, be enjoined and restrained from engaging in further acts of unfair competition, trademark infringement, and copyright infringement;

(7) Enter an order of impoundment pursuant to **17 U.S.C. §§503 and 509(a)** impounding all infringing copies of Plaintiff's audiovisual works, photographs or other materials, which are in Defendants' possession or under their control;

(8) Enter an order enjoining Defendant Hotfile.com, Defendant Titov, Defendant Webazilla, L.L.C., and Defendant Webazilla, B.V., from disposition of the any domain names registered to them and any funds in their accounts until full and final settlement of any and all money damage judgments;

(9) Enter an order directing, *instanter*, Defendant Moniker Online Services to place on a register lock www.Webazilla.com and any other domain names controlled by Defendant Webazilla, L.L.C. or Defendant Webazilla, B.V. pending the outcome of this case;

(10) Enter an order directing, *instanter*, PayPal, Inc. to freeze all assets and funds held by Defendant PayPal in any account of any Defendant named herein, pending the outcome of this case;

(11) Enter an order requiring a full and complete accounting of all amounts due and owing to Plaintiff LMH as a result of their illegal or improper activity, whether criminal or civil in nature, of any and all Defendants, each and singular, jointly or severally;

(12) Enter an order directing the Defendants pay Plaintiff's general, special, actual and statutory damages as follows:

a. Plaintiff LMH's damages and Defendants' profits pursuant to **17 U.S.C. §504(b),** or in the alternative, maximum enhanced statutory damages of $150,000.00 per infringed work pursuant to **17 U.S.C. §504(c)(2),** for Defendants' willful infringement of Plaintiff LMH's copyrights;

b. Plaintiff LMH's damages and Defendants' profits or alternatively statutory damages pursuant to **15 U.S.C. §1117**; and,

c. Plaintiff LMH's damages and Defendants' profits pursuant to **CAL. CIVIL CODE §3344** or, in the alternative, statutory damages pursuant to **CAL. CIVIL CODE §3344**, plus punitive damages pursuant to **CAL. CIVIL CODE §3344**;

(13) Enter an order directing the Defendants, jointly and severally, pay Plaintiff LMH both the costs of action and the reasonable attorney's fees incurred by it in prosecuting this action pursuant to **17 U.S.C. §504** and **15 U.S.C. §1117**;

(14) Enter an order directing the Defendants, jointly and severally, pay pre- and post-judgment interest at the highest legal rate;

(15) Enter an order finding the Defendants, but excepting Defendant Limelight Networks, Defendant Moniker Online Services, and Defendant PayPal, Inc., were involved in a civil conspiracy to commit the aforementioned wrongful acts and are therefore all jointly and severally liable for all of the co-conspirators' acts; and,

(16) Grant to Plaintiff LMH whatever and further relief, either in law or in equity, to which this honorable Court deems them fit to receive.

Respectfully submitted,

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United States District Court
Northern District of Texas

VERIFICATION OF FIRST AMENDED ORIGINAL COMPLAINT

I, **MARC RANDAZZA**, am the lead counsel filing this First Amended Original Complaint. I have read the foregoing document and am familiar with each and every statement contained therein. The matters stated in this document are true and correct and are within my personal knowledge.

I declare, aver, and verify under penalty of perjury under the laws of the State of California and the laws of the United States that the foregoing First Amended Original Complaint are true and correct.

Additionally, I, **MARC RANDAZZA**, state, aver, and verify that the filing of this First Amended Original Complaint is designed not to disadvantage any Defendant. Further, the filing of this First Amended Original Complaint permits the Court to assess the facts underlying the extraordinary relief requested herein and in the accompanying documents and filings. I further verify that this filing is designed not to thwart the legitimate ends of justice, but rather, that justice may be served.

Verification signed the day 30 day of the month of December, A.D., 2009.

MARC RANDAZZA, DECLARANT

SUBSCRIPTION OF NOTARY PUBLIC

THE STATE OF CALIFORNIA *
* **KNOW ALL MEN BY THESE PRESENTS THAT:**
THE COUNTY OF SAN DIEGO *

BEFORE ME, a Notary Public in and for the State of California and the County of San Diego, personally appeared **MARC RANDAZZA**, the individual signing the Verification above. Upon being duly sworn, he said, upon his oath, that the statements contained in his Verification were the truth, that he was familiar with each and every statement contained in the Verification, that he made his Verification of his own free act and volition, was under no threats of force, duress, or coercion when he made his Verification, and was promised nothing of value in return for making his Verification.

Signed and subscribed before me on this, the 30th day of the month of December, A.D., 2009 San Diego County, California.

LARRY A. CONWAY
Commission No. 1860031
NOTARY PUBLIC - CALIFORNIA
SAN DIEGO COUNTY
My Comm. Expires August 3, 2013

SEAL OF THE NOTARY PUBLIC

NOTARY PUBLIC IN AND FOR
THE STATE OF CALIFORNIA AND
THE COUNTY OF SAN DIEGO

August 3 2013
NOTARY COMMISSION EXPIRES: